

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,) 8:16CR196
)
v.) ORDER
)
ADALBERTO MARTINEZ-RAMIREZ,) AND RECOMMENDATION
)
Defendant.)

This matter is before the court on the motion to suppress by defendant Adalberto Martinez-Ramirez (Martinez-Ramirez) (Filing No. 102). The motion is set for an evidentiary hearing at 1:30 p.m. on November 15, 2016. The government has filed a response (Filing No. 113, p. 2-3) stating:

As a consequence, Plaintiff concedes Defendant's Motion to Suppress his statements during the custodial interview. Plaintiff further concedes suppression derived from Defendant's statements, for the reason there is no such derivative evidence. Plaintiff will not refer to the statements in its case in chief.

In accordance with that announcement,

IT IS ORDERED:

The evidentiary hearing scheduled for November 15, 2016, is canceled.

IT IS RECOMMENDED to the Honorable Robert F. Rossiter, Jr., United States District Judge, that Martinez-Ramirez's motion to suppress (Filing No. 102) be granted. In the event the plaintiff seeks to use the defendant's statement at time of trial other than its case-in-chief, the issue of voluntariness is left to the trial judge for an appropriate hearing pursuant to 18 U.S.C. § 3501, *Jackson v. Denno*, 378 U.S. 368 (1964), and *Dickerson v. United States*, 530 U.S. 428 (2000).

ADMONITION

Pursuant to NECrimR 59.2 any objection to this Findings and Recommendations shall be filed with the Clerk of the Court within fourteen (14) days after being served with a copy of this Findings and Recommendations. Failure to timely object may constitute a waiver of any such objection. The brief in support of any objection shall be filed at the time of filing such objection. Failure to file a brief in support of any objection may be deemed an abandonment of the objection.

Dated this 3rd day of November, 2016.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge